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EPA PROPOSES PCB CONTROLS: HAZARDOUS MATERIAL RULES 1800

Contending that polychlorinated biphenyls "constitute a significant hazard to human health and the environment and must be immediately and effectively controlled with every means at our disposal," Environmental Protection Agency Administrator Russell E. Train announced Dec. 22 that his agency will establish requirements for the virtual elimination of PCBs from industrial wastewater discharges. At the same time Train also announced EPA proposal of regulations governing the control of hazardous material spills and that the agency will move as rapidly as possible to finalize the rules.

Aim of the agency is zero discharge of PCBs, but where that is not possible, it hopes to reduce industrial discharges to two to three ounces, Train explained. Under a directive from Train, regional officials must complete within 60 days ongoing surveys of the 37 facilities that manufacture transformers and capacitors using PCBs and the single U.S. PCB manufacturing facility of Monsanto Co. These surveys will determine the manner in which PCBs enter the water, air and land, and the precise measures that can be undertaken at each facility to eliminate or drastically minimize PCB contamination of the environment.

"I have further directed our regional offices to assure immediately thereafter that all water discharge permits issued to these facilities are revised to require that all those measures affecting water discharges are undertaken expeditiously, and to further assure that such measures are also undertaken by facilities which discharge into municipal treatment works and are not therefore required to procure such permits," Train said. Survey results will also be used to determine whether an air emissions standard should be set for PCBs and to develop measures for avoiding further land contamination from PCBs.

Train Would Use Emergency Powers Provision of FWPCA

Train expressed optimism that in most instances control of PCB discharges can be achieved at reasonable cost through process changes, substitution and/or installation of control technology. EPA hopes for industry cooperation to control PCBs, he said, but noted that if such cooperation is not forthcoming, "I am prepared to exercise my authority under Section 304 [emergency powers provision] of the Federal Water Pollution Control Act to ensure immediate action in individual cases."

In order to insure the safe handling and disposal of PCBs now in use, Train said he has urged the major electric utility companies and other major users of large capacitors and transformers to assume responsibility for controlling the use and disposal of their PCBs. Train will meet with industry representatives this month to discuss specific programs.

"We would expect these actions to substantially reduce the potential risk from the large quantities of PCBs which are presently in use, and to thereby avoid their eventual addition to the existing environmental burden," Train said. He also announced intention of asking the American National Standards Institute to develop and implement guidelines and a code of good practice for the maintenance, handling, servicing and disposal of existing equipment containing PCBs.

Other actions planned by Train are: (1) meeting with manufacturers of equipment using PCBs to discuss plans for developing environmentally acceptable alternatives; (2) request to state governors to apply their authorities to the PCB problem; (3) request to Federal agencies to inventory their uses of PCBs and PCB-containing materials and develop plans to assure their safe use and disposal; (4) investigation of PCB discharges from major waste recycling plants and development of appropriate effluent guidelines and limitations in discharge permits;

(5) investigation of the casting industry to develop appropriate standards and guidelines for its air, water and solid waste discharges; (6) development of guidance for proper disposal of PCBs in municipal and industrial solid wastes; (7) joint program with Corps of Engineers to deal with the difficult problem of PCB-contaminated sediments in rivers, lakes and coastal waters.

EPA estimates that about 300-million pounds of PCBs are in the environment in the U.S., either in landfills, air, water, soil or bottom sediments. Each year, it

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EPA PROPOSES HAZARDOUS SUBSTANCE SPILL RULES (Cont.)

says, 10,000 pounds are discharged into U.S. waterways from electric equipment manufacturers and the one Monsanto PCB-manufacturing plant; 1- to 2-million pounds are spilled or leaked by equipment manufacturers; and 10-million pounds are introduced by other sources through spills, servicing, recycling of PCB-containing equipment.

Train stressed that the EPA plan of action "will not lead to a quick and easy reduction of the current levels of PCBs in our environment... Hopefully the control of discharges will arrest the rapid growth of the problem. Ultimately, however, only the reduced use of PCBs will yield a significant and permanent solution."

In a general attack on hazardous materials' contamination of the environment, Train told reporters that proposed regulations, published in Dec. 30 *Federal Register*, will designate more than 300 chemicals as posing an imminent and substantial danger to public health and welfare when spilled into waterways. If designated as hazardous, a substance is considered to be nonremovable; a harmful quantity is determined; and penalties are assessed for spills in excess of that amount.

Federal Water Pollution Control Act requires that "harmful quantity" be defined for each designated substance for purposes of spill reporting and enforcement action. To simplify this procedure, EPA has proposed that the substances be grouped into four classifications based on their relative potential hazard to the aquatic environment, with a relative harmful quantity assigned to each class.

Harmful Quantity Determined by Aquatic Toxicity

Harmful quantity is determined by the aquatic toxicity of the substance, as measured by the concentration that is lethal to 50% of test organisms over a 96-hour period (LC₅₀). The most toxic substances would be listed as Category A, having an LC₅₀ of less than 1 part per million and a harmful quantity of 1 pound. Category B would be those substances with LC₅₀ that is greater than or equal to 1 ppm and less than 10 ppm, with harmful quantity set at 10 lb. Category C substances would have LC₅₀ that is greater than or equal to 10 ppm and less than 100 ppm, with harmful quantity set at 100 lb. In Category D are those substances with LC₅₀ greater than or equal to 100 ppm and less than or equal to 500 ppm, with harmful quantity set at 500 lb.

In special waters, defined as those which are drinking water reservoirs, part of a designated National Wildlife Refuge System or part of a designated National Forest Wilderness, National Park System or National Wilderness Preserve System, EPA proposes that any quantity of a designated substance be considered a harmful quantity when discharged into such waters.

Under FFWCA, EPA has the discretion to set penalties on the basis of \$500 to \$5,000 per discharge or on the basis of \$100 to \$1,000 per unit of measurement, with a maximum of \$5-million for vessels and \$500,000 for onshore or offshore facilities. EPA proposes that the former system be used "unless the Administrator determines that gross negligence on the part of the owner or operator of the vessel or facility is the cause of the discharge, or that after the discharge has occurred, the owner or operator has displayed gross negligence in minimizing or mitigating effects on the public health or welfare."

More Stringent Penalties Set for Gross Negligence

When gross negligence is found, penalties would be assessed under the latter system. To set penalties in that manner, EPA has determined the unit of measurement for Category A substances to be 1 lb., Category B to be 10 lb., Category C to be 100 lb., and Category D to be 500 lb., and has assigned a base penalty rate of \$1.00 per unit. Because all substances within a category are not equally damaging, agency proposes to subcategorize the substances according to physical, chemical and dispersal characteristics and assign adjustment factors.

Subcategories and their adjustment factors are: Insoluble Volatile Floater (0.1), Insoluble Nonvolatile Floater (0.23), Insoluble Sinker (0.36), Soluble Mixer (0.49), Precipitator (0.62), Soluble Sinker (0.73), Soluble Floater (0.88), and Miscible (1). If a Category A substance is an Insoluble Volatile Floater, penalty rate would be \$1,000 times the adjustment factor of 0.1 to equal \$100 per pound. In soluble Volatile Floater in Category C would have a penalty rate of \$100 per 500 pounds of spilled material.